Page No. (1)

(3)

IN THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT RAIPUR CHHATTISGARH (CGP/S) SD15(C)

O.A. No. 720 of 2002.

APPLICANTS : Smt. Dukhita Bahal W/o [redacted] Singh Bahal, Retired Head Mistress, resident of Atashvani Road, near Vaishnavi Engineering Works, Mayapara, Jagdalpur, Distt. Bastar (C.G.)

VERSUS

RESPONDENTS : 1. State of Chhattisgarh
Through : Secretary,
Tribal Welfare Department, Dau Kalyan Singh Bhawan, Raipur (C.G.)

2. Collector, Bastar (Tribal Development Branch) Jagdalpur, Distt. Bastar

3. Assistant Commissioner,
Tribal Development, Jagdalpur,
Distt. Bastar (C.G.).

4. Assistant Director,
Treasury Accounts & Pension,
Raipur (C.G.).

5. District Treasury Officer,
Jagdalpur, Distt. Bastar (C.G.).

ORIGINAL APPLICATION UNDER SECTION 19 OF ADMINISTRATIVE TRIBUNAL ACT, 1985 :

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE APPLICANT :

As mentioned above in the cause title.

....contd....

(28)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No. 5015 of 2005

Petitioner : Smt. Dukhita Bahal

Versus

Respondents : State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri Subhash Yadav, Advocate for the Petitioner.

Smt. Anju Ahuja, Govt. Advocate for the State/respondents.

ORDER

(31st October, 2006)

1. According to learned counsel for the petitioner, the petitioner while working as Teacher obtained B.Ed. Examination Certificate in the year 1990-91 on her own expenses. The petitioner was granted two advance increments by order dated 16.2.1999 (Annexure A/1). The petitioner retired from service on superannuation on 30.6.2001. Two advance increments, made earlier, was directed to be deducted by order dated 27.9.2001 (Annexure A/2). According to learned counsel for the petitioner, the deduction of payment of two advance increments on acquiring B.Ed. Examination Certificate is illegal and contrary to the circulars dated 24.12.98 & 16.2.1999.

2. The petitioner by way of this petition seeks a relief that the impugned order dated 27.9.2001 (Annexure A/2) for deducting a sum of Rs. 28,472/- as surplus payment towards two advance increments be quashed.

3. According to learned counsel for the petitioner, the petitioner is entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (2006 (II) MPJR-CG 96). This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed. /B.T.I. Examination

(29)

Certificate on their own expenses, are covered by the circular dated 24.12.98 issued by the State Government of Madhya Pradesh.

4. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others (2000 (1) M.P.L.S.R. 136) the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B.Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A.No. 1632/99, decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B.Ed. degree before 1.3.1999 is entitled to two advance increments.

5. It is pointed out by learned counsel appearing for the petitioner that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B.Ed./B.T.I. examination certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

6. Learned counsel for the petitioner further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly

concedes and agrees with the averment made by learned counsel appearing for the petitioner.

7. As a result and foregoing reasons, the petitioner is entitled to payment of two advance increments on acquiring B.Ed. Examination Certificate, subject to verification of the fact as to whether the petitioner has acquired B. Ed. Examination Certificate on his own expenses as per the circulars dated 24.12.1998 and 16.2.1999 and consequently the order dated 27.9.2001 (Annexure A/2) is quashed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Babla